


Planning Committee

9 March 2022

Subject:	Decisions of the Planning Inspectorate
Director:	Director – Regeneration and Growth Tony McGovern
Contribution towards Vision 2030:	
Contact Officer(s):	<p>John Baker Service Manager - Development Planning and Building Consultancy John_baker@sandwell.gov.uk</p> <p>Alison Bishop Development Planning Manager Alison_bishop@sandwell.gov.uk</p>

DECISION RECOMMENDATIONS

That Planning Committee:

Notes the decisions of the Planning Inspectorate as detailed in the attached appendices.

1 PURPOSE OF THE REPORT

This report is submitted to inform the Committee of the outcomes of appeals that have been made to the Planning Inspectorate by applicants who were unhappy with the Committee's decision on their application.

2 IMPLICATIONS FOR SANDWELL'S VISION 2030

The planning process contributes to the following ambitions of the Vision 2030 –

Ambition 7 – We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.

Ambition 8 - Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.

Ambition 10 - Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 Applicants who disagree with the local authority's decision on their planning application may submit an appeal to the Planning Inspectorate. An appeal may also be made where the local authority has failed to determine the application within the statutory timeframe.
- 3.2 Appeals must be submitted within six months of the date of the local authority's decision notice.
- 3.3 Decisions on the following appeals are reported, with further detailed set out in the attached decision notices:-

Application Ref	Site Address	Inspectorate
DC/20/64188	Site Of 220 221 Toll End Road Tipton	Dismissed
DC/20/65080	920 - 922 Walsall Road Great Barr Birmingham	Dismissed
PD/21/01753	Telecommunications Mast SWL 12205 Land At Corner Of Crankhall Lane/Friar Park Road/Freeman Road/Coronation Road Wednesbury WS10 0EY	Allowed

4 STRATEGIC RESOURCE IMPLICATIONS

- 4.1 There are no direct implications in terms of the Council's strategic resources.
- 4.2 If the Planning Inspectorate overturns the Committee's decision and grants consent, the Council may be required to pay the costs of such an appeal, for which there is no designated budget.

5 LEGAL AND GOVERNANCE CONSIDERATIONS

- 5.1 The Planning Committee has delegated powers to determine planning applications within current Council policy.
- 5.2 Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority's decision on their application, or where the local authority has failed to determine the application within the statutory timeframe.

Tony McGovern
Director – Regeneration and Growth



Appeal Decision

Site visit made on 4 November 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2022

Appeal Ref: APP/G4620/W/21/3274452

220 Toll End Road, Tipton, West Midlands DY4 0HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Huaqiu Huang against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/20/64183, dated 3 March 2020, was refused by notice dated 7 March 2021.
 - The development proposed is pair of semi-detached 3 bedroom houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: i) the effect of the proposed development on the character of the area; ii) the quality of the proposed accommodation with regard to private amenity space; and iii) the effects of the proposal on highway safety.

Reasons

Character of the area

3. The appeal site comprises a vacant plot which occupies a prominent position on the corner of Toll End Road and Moors Mill Lane. The proposed dwellings would face Toll End Road. Development along here is a mix of residential and commercial units.
4. Most notably, on the junction where the appeal site is located, the retail premises to the north are set behind a deep and wide frontage. Opposite this property on the corner of Toll End Road and Aston Street is a landscaped green space. Dwellings across from the appeal site along Toll End Road are setback from the highway behind landscaped frontages with low fencing. Together, the arrangement of these buildings and spaces contribute to the open and spacious setting at this junction, in an otherwise built-up area.
5. In contrast, although the proposed dwellings would be set back from Toll End Road, due to the width of the development block, this, in part would be relatively close to the pavement along Moors Mill Lane and would therefore appear cramped. Furthermore, due to this arrangement, along with the largely blank flank elevation of the proposed block and the site's prominent location, the proposed development would be unduly dominant within the street scene

and therefore would harm the spacious character of the immediate area and represents poor design. I, therefore, find conflict with Policy ENV3 of the Black Country Core Strategy adopted February 2011, which seeks to secure high-quality design, and Policy ES09 of the Site Allocations Plan Document adopted December 2012, which requires that poor designs are rejected, particularly those that are inappropriate in their locality.

Amenity space

6. Both proposed dwellings incorporate three bedrooms each and are therefore suitable for family accommodation. The Council's adopted Supplementary Planning Guidance on Residential Design (Design Guide) requires that family housing must be designed with private amenity space of no less than 70 sq.m. in area or 10.5m in length. The amenity space to the plot nearest to Moors Mill Lane is about 10.5m in length when considering the land to the side. However, based on the drawings before me, I cannot be certain that this would be screened and therefore private. The amenity space for the second plot fails to meet the Council's size requirements.
7. Therefore, these dwellings fail to provide suitable private amenity space which is necessary to secure high standards of amenity for the occupiers of these dwellings. This is contrary to the Council's Design Guide, and Paragraph 130 of the National Planning Policy Framework, which amongst other things seeks to secure high standard of amenity for future users.

Highway safety

8. Four parking spaces are proposed (two for each dwelling) these would be arranged side by side, along the front of the proposed dwellings. This arrangement is such that vehicles would need to reverse in or out of these spaces off a heavily trafficked main road near a junction. This would be particularly difficult when any of the other spaces are in use. Such an arrangement would create a potential point of congestion and conflict between emerging vehicles, resulting in increased danger and reduced highway safety for pedestrians, cyclists, and drivers. This would be contrary to the aims of Paragraph 112 of the Framework, which along with other things, requires new developments to create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Other Matters

9. The appellant advises that in designing the submitted scheme he has considered concerns raised by the Council in respect of a previous scheme. However, as I have limited information in respect of that scheme and a previous planning permission (DC/10/52147) for development at the site, I am unable to draw any meaningful conclusions in respect of these.

Conclusion

10. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR



Appeal Decisions

Site visit made on 11 January 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2022

Appeal A Ref: APP/G4620/W/21/3283113

920-922 Walsall Road, Great Barr, Birmingham B42 1TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Scott Arms Homes Limited against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/20/65080, dated 15 December 2020, was refused by notice dated 19 March 2021.
 - The development proposed is described as 'conversion to 9 x 2 bed apartments'.
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Appeal B Ref: APP/G4620/W/21/3283115

Land to the rear of 920-922 Walsall Road, Great Barr, Birmingham B42 1TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Scott Arms Homes Limited against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/65843, dated 29 June 2021, was refused by notice dated 26 August 2021.
 - The development proposed is demolition of No. 920 Walsall Road and erection of 6 no. 2 bed apartments.
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Decision

1. The appeals are dismissed.

Preliminary Matters

2. Appeals A and B are separate, relating to different proposals on the same site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. Notwithstanding the descriptions in the headings above, both proposals comprise the demolition of the existing house at 920 Walsall Road and erection of a detached apartment block. Appeal A would provide nine flats and Appeal B would provide six.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and

- the living conditions of the occupants of neighbouring properties on Waddington Avenue and Walsall Road, with particular regard to privacy, outlook and light.

Reasons

Character and Appearance

5. Walsall Road is a busy main road comprising a mix of residential and commercial uses. In the immediate vicinity of the appeal site and extending towards Jayshaw Avenue, buildings are detached and semi-detached two storey properties. There is a strong building line, with properties set behind large areas of parking laid out with hardstanding. From Walsall Road, views of land to the rear of existing properties are very restricted, due to limited gaps between buildings and intervening boundary treatments. There is some variation in building heights, styles and roof lines, but the consistency of the building line and two storey scale is a positive defining feature of the character of the road.
6. The three storey residential accommodation at Sandringham Court marks a change in the character of the road. Its building line is set closer to the road and comprises substantial buildings. Its red brick appearance contrasts with the white render of Nos 920 and 922 and adjacent buildings. Consequently, it appears as a distinct development, prominent in the street scene and extending further back from the road. This leads on to a three storey retail parade, including residential accommodation above ground floor level.
7. In both appeals, the apartment block would be positioned towards the rear of the site, set back some considerable distance from the predominant building line. Demolition of No 920 would provide relatively open views of the proposed apartment building from Walsall Road. This would create a wide break in the building line, at odds with the pleasing continuity of existing buildings along this part of the road. Both appeals propose the building to be positioned in line with a block at the rear of the Sandringham Court development. It would therefore appear to join up with that development. However, with Nos 922 – 926 being retained, both proposals would appear as a tandem development, set behind No 922, rather than as a comprehensive redevelopment scheme.
8. Consequently, the proposals would harm the character and appearance of the area. Therefore, the proposals would not accord with Policy ENV3 of the Black Country Core Strategy (February 2011) (Core Strategy) which seeks to achieve successful place-making and proposals of a high quality design. They would also be contrary to Policy SAD ES09 of the Council's Site Allocations and Delivery Development Plan Document (December 2012) (DPD) which requires that particular attention is given to how developments relate to the street.
9. Moreover, given the conflict with these policies, the proposals would not be wholly in accordance with the requirements of Policy H2 of the DPD, which supports residential development in windfall sites subject to certain criteria, including that the proposal is capable of meeting other development plan policies. The proposals would conflict with paragraph 130 of the National Planning Policy Framework (Framework), which seeks to ensure developments are sympathetic to local character. The proposals would also conflict with guidance at section 2.1 of the Council's Residential Design Guide Supplementary Planning Document (2014) (SPD), which identifies that tandem

development should generally be resisted, and seeks to avoid subdivision of existing plots where it would harm the character of the existing street.

Living Conditions

10. Due to ground levels rising up beyond the rear of the site, the ridge level of the proposed three storey apartment building (Appeal A) would be only slightly taller than that of houses immediately to the rear of the site on Waddington Avenue. The ridge height of Appeal B would be slightly lower than the ridge height of those houses. The proposed separation distance of around 27.4m between the rear elevation of the appeal buildings and that of houses on Waddington Avenue, would be broadly in compliance with the distance specified in the SPD for three storey rear facing elevations.
11. The presence of a rear access track between the appeal site and rear gardens on Waddington Avenue, and intervening vegetation, would further limit intervisibility between existing properties and the appeal proposals. Higher site levels on Waddington Avenue, together with existing intervening vegetation, would also limit the extent of any additional shading of rear gardens there.
12. Both proposals would introduce a considerable number of habitable room windows with views towards the rear elevations of existing properties on Walsall Road. Some properties are in commercial use and therefore may be less sensitive to overlooking. However, others such as No 918, appear to be residential. Furthermore, the submitted plans show what appears to be Juliet style balconies at ground and first floor level. Although a degree of overlooking between residential properties is not uncommon in suburban areas, the topography is such that the proposal would create the potential for a considerable degree of overlooking, both actual and perceived, within such properties and rear gardens.
13. The sense of overlooking in the rear garden at No 918, for example, would be heightened by the garden's long and relatively narrow shape, leaving little areas out of view of the proposals' front facing windows. Moreover, the scale of the proposals, their position on higher ground at the rear of the site, combined with the number and size of the proposed windows, would appear overly intrusive in views from existing buildings on Walsall Road, such as No 918.
14. Rear gardens of houses on Walsall Road are sufficiently long that any increased shading would be unlikely to unacceptably harm living conditions of occupants there.
15. Therefore, neither appeal would unacceptably harm the living conditions of occupants of houses on Waddington Avenue with respect to outlook, privacy or light. Also, neither appeal would unacceptably harm living conditions of neighbouring occupants on Walsall Road with respect to light. However, both appeals would unacceptably harm the living conditions of the occupants of neighbouring houses on Walsall Road with respect to privacy and outlook.
16. Accordingly, whilst I have found some compliance, overall the proposals would be contrary to paragraph 130 of the Framework, which seeks to ensure that developments provide a high standard of amenity for existing and future users. Whilst the proposals would comply with the separation distance set out in the SPD, they would not meet its overall aspiration for developments to be designed to meet the needs of the local community.

Other Matters

17. I note that the Council's policy officer considered the proposals to be acceptable and in compliance with relevant standards including the SPD. I accept that the site has the benefit of being relatively accessible and in close proximity to shops and facilities. There would also be some benefits from the scheme, in terms of creating additional residential accommodation, construction employment and local trade. However, these matters do not outweigh the potential harm I have identified to the character and appearance of the surrounding area and to living conditions of neighbouring occupants. An absence of harm in respect of matters such as highway safety and flood risk are neutral considerations.

Conclusion

18. For the reasons given above I conclude that Appeal A and Appeal B should be dismissed.

Rachel Hall

INSPECTOR



Appeal Decision

Site visit made on 24 January 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2022

Appeal Ref: APP/G4620/W/21/3278301

Corner of Crankhall Lane/ Freeman Road/ Friar Park Road/ Coronation Road, Wednesbury WS10 0EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by HUTCHISON UK LTD against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref AD/PD/21/01753, dated 11 April 2021, was refused by notice dated 11 June 2021.
 - The development proposed is a 15m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted, under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for the siting and appearance of a 15m high monopole mast, wraparound cabinet at base and associated ancillary works at the Corner of Crankhall Lane/ Freeman Road/ Friar Park Road/ Coronation Road, Wednesbury WS10 0FY in accordance with the terms of the application, Ref AD/PD/21/01753, dated 11 April 2021, and the plans submitted with it including 002 rev B, 210 rev B, 260 rev B, 302 rev B and 305 rev B.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

Planning policy

3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (The Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed mast on the character and appearance of the surrounding street scene, and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

5. Crankhall Lane is a main route through a suburban residential area. The appeal site is at a confluence of several roads, including Price Road and Coronation Road. The site is within the wide footway. It is adjacent to the car park of a retail food store, which has no screening or landscaping within or around its perimeter. Opposite the food store is an area of open space enclosed by Freeman Road, Friar Park Road and Crankhall Lane. The site is therefore adjacent to commercial activity, away from immediate housing within an exposed location.
6. The proposed mast would be visible in long views along the principal roads through the area and would be taller than local streetlighting columns. It would be especially overt in views of the site from Price Road and Friars Park Road due to the flat and open character of the surrounding landform. However, it would not significantly contribute to street clutter being located within a spacious section of the footway and would not impede pedestrian flow. It would also not be within direct views of nearby residential properties. Furthermore, long views of the proposal would also take in the wider context of existing streetlights, bus shelters and roadside signage. This would integrate the mast, to some extent, with the local pattern of built development. Nevertheless, due to an absence of local screening and its height, the mast would result in moderate harm to the character and appearance of the area.
7. The Framework places importance on decisions that support the expansion of electronic communication networks. It states that new masts should be sympathetically designed. Such equipment should be consistent with the needs of consumers, the efficient operation of the network and provide reasonable capacity for future expansion.
8. The coverage map illustrates that the nearest mast is carrying a heavy data load and the cell is congested. This has resulted in gaps in coverage to the south of the existing mast that are within close proximity of the appeal site. The area therefore suffers pockets of poor coverage, particularly with respect to 5G services. The Appellant illustrates that coverage within the wider west Friar Park area is therefore limited. The coverage plan¹ illustrates a clear need for improved coverage in the area. Although the need for a mast is not required to be proven by the Framework an absence of coverage can be a material consideration.
9. The Framework also encourages the reuse and adaption of existing base stations. Furthermore, it states that proposals for new masts should evidence the possibility of erecting antennas on an existing building, masts or other

¹ Appellant's Site Specific Supplementary Information, figure 4

structures. This therefore establishes a sequential approach first favouring the reuse of existing sites.

10. The Appellant identifies that the upgrading of existing sites is not available. It is also asserted that the search area for a new site is extremely constrained due to the close-knit residential character of the area. In consideration of seven alternative base station locations, all within the immediate residential area, the appellant has suggested that no suitable alternative site exists. The alternative sites are in moderately less obtrusive locations. However, they have been discounted for reasonable reasons. It is therefore unlikely that a more suitable site would be more reasonably available than that proposed. Furthermore, given the surrounding features, I accept that the column's intended height is the minimum for effective operation.
11. Insofar as it is a material consideration, I have also had regard to policy SAD TEL 1 of the Site Allocations and Delivery Plan Document (2012). This policy, among other matters, seeks for the siting and appearance of new masts to minimise their impact on amenity. As I have found that the proposal would result in moderate harm to the local streetscene it would not fully accord with the requirements of this policy.
12. The proposed mast would be prominent in the street and be taller than the adjacent streetlights. The absence of screening would emphasise views of the proposed mast. Nonetheless, it would be assimilated into views of the local street furniture and would convey only moderate harm to the local street-scene. The absence of suitable alternative sites, the constrained nature of the area and the compelling need for local coverage is of great importance to the assessment of the case. In this case the Framework is of over-riding importance identifying that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.

Other Matters

13. Many of the occupiers of the surrounding properties have objected to the proposal, and I have taken these submissions into account. The majority of objections relate to matters of siting and appearance, which I have considered above. I have also had regard to the comments made in the representations including issues such as health matters. However, documentation has been provided to confirm compliance with the International Commission on Non-Ionizing Radiation Protection guidance. Given this, government guidance is clear that decision makers should not set additional health safeguards and as such any concerns in this respect are not a reason to withhold planning permission.

Conclusion and Conditions

14. For the reasons given above, and having taken all other matters into account, I conclude that the appeal should be allowed, and prior approval granted. The approval granted for the mast, and its associated equipment, is subject to the standard conditions set out in the Order.

B Plenty

INSPECTOR